

IN THE SENATE

SENATE BILL NO. 1118

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO HEALTH CARE POLICIES; AMENDING SECTION 41-2210, IDAHO CODE, TO PROVIDE CERTAIN COVERAGE UNDER GROUP AND BLANKET POLICIES TO UNMARRIED DOMESTIC PARTNERS; AMENDING CHAPTER 40, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4026, IDAHO CODE, TO PROVIDE CERTAIN COVERAGE UNDER HEALTH BENEFIT PLANS TO UNMARRIED DOMESTIC PARTNERS; AMENDING CHAPTER 41, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-4126, IDAHO CODE, TO PROVIDE CERTAIN COVERAGE UNDER JOINT PUBLIC AGENCY SELF-FUNDED PLANS TO UNMARRIED DOMESTIC PARTNERS; AND AMENDING SECTION 41-4708, IDAHO CODE, TO PROVIDE CERTAIN COVERAGE UNDER SELF-FUNDED PLANS TO UNMARRIED DOMESTIC PARTNERS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-2210, Idaho Code, be, and the same is hereby amended to read as follows:

41-2210. REQUIRED PROVISION IN GROUP AND BLANKET POLICIES. (1) Any group disability insurance contract or blanket disability insurance contract, delivered or issued for delivery in this state which provides coverage for injury or sickness for newborn dependent children of subscribers or other members of the covered group, shall provide coverage for such newborn children, including adopted newborn children that are placed with the adoptive subscriber or other member of the covered group within sixty (60) days of the adopted child's date of birth, from and after the moment of birth. Coverage under the contract for an adopted newborn child placed with the adoptive subscriber or other member of the covered group more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not attained age eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive subscriber or other member of the covered group, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive subscriber or other member of the covered group signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with a subscriber or other member of the covered group continues in the same manner as it would with respect to a naturally born child of the subscriber or other member of the covered group until the first to occur of the following events:

(a) Date the child is removed permanently from that placement and the legal obligation terminates; or

(b) The date the subscriber or other member of the covered group rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

(2) An insurer shall not restrict coverage under a group disability insurance contract or a blanket disability insurance contract of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of a child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(3) Any group disability insurance contract or blanket disability insurance contract delivered or issued for delivery in this state shall provide that an unmarried child under the age of twenty-one (21) years or an unmarried child who is a full-time student under the age of twenty-five (25) years and who is financially dependent upon the parent shall be permitted to remain on the parent's or parents' contract. Further, any unmarried child of any age who is medically certified as disabled and financially dependent upon the parent is permitted to remain on the parent's or parents' contract.

(4) No policy of disability insurance which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions, as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the policy. If a fixed amount is specified in such policy for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the policy. Where the policy contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the policy. This section shall apply to all disability policies except any group disability policy made subject to an applicable collective-bargaining agreement in effect before January 1, 1977.

For purposes of this section, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All policies subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such policy which is in conflict with this section shall be of no force or effect.

(5) From and after January 1, 1998, no policy of disability insurance which provides medical expense maternity benefits, shall restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child in a manner that would be in conflict with the newborns' and mothers' health protection act of 1996.

(6) At the request of an employer, all group disability insurance contracts or blanket disability insurance contracts, delivered or issued for delivery in this state which provide coverage for the spouse of the insured must provide the same coverage that is available to such spouse to the unmarried domestic partner of the insured on the same terms.

(a) As used in this subsection, "unmarried domestic partner" means a person who has entered into a committed interdependent relationship with another adult, where the partners:

(i) Are responsible for each other's common welfare;

(ii) Share a common residence and intend to do so indefinitely;

(iii) Are not related by blood or adoption to an extent that would prohibit marriage in this state; and

(iv) Are legally competent and qualified to enter into a contract.

(b) For purposes of this subsection, unmarried domestic partners may share a common residence, even if they do not each have a legal right to possess the residence or one (1) or both unmarried domestic partners possess additional real property. If one (1) unmarried domestic partner temporarily leaves the common residence with the intention of returning, the unmarried domestic partners shall continue to share a common residence for the purposes of this subsection.

SECTION 2. That Chapter 40, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-4026, Idaho Code, and to read as follows:

41-4026. UNMARRIED DOMESTIC PARTNER COVERAGE. (1) At the request of an employer, all self-funded plans which provide coverage for the spouse of the insured must provide the same coverage that is available to such spouse to the unmarried domestic partner of the insured on the same terms.

(2) As used in this section, "unmarried domestic partner" means a person who has entered into a committed interdependent relationship with another adult, where the partners:

(a) Are responsible for each other's common welfare;

(b) Share a common residence and intend to do so indefinitely;

(c) Are not related by blood or adoption to an extent that would prohibit marriage in this state; and

(d) Are legally competent and qualified to enter into a contract.

(3) For purposes of this section, unmarried domestic partners may share a common residence, even if they do not each have a legal right to possess the residence or one (1) or both unmarried domestic partners possess additional real property. If one (1) unmarried domestic partner temporarily leaves the common residence with the intention of returning, the unmarried domestic partners shall continue to share a common residence for the purposes of this section.

SECTION 3. That Chapter 41, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-4126, Idaho Code, and to read as follows:

41-4126. UNMARRIED DOMESTIC PARTNER COVERAGE. (1) At the request of an employer, all joint public agency self-funded plans which provide coverage for the spouse of the insured must provide the same coverage that is available to such spouse to the unmarried domestic partner of the insured on the same terms.

(2) As used in this section, "unmarried domestic partner" means a person who has entered into a committed interdependent relationship with another adult, where the partners:

(a) Are responsible for each other's common welfare;

(b) Share a common residence and intend to do so indefinitely;

(c) Are not related by blood or adoption to an extent that would prohibit marriage in this state; and

(d) Are legally competent and qualified to enter into a contract.

(3) For purposes of this section, unmarried domestic partners may share a common residence, even if they do not each have a legal right to possess the residence or one (1) or both unmarried domestic partners possess additional real property. If one (1) unmarried domestic partner temporarily leaves the common residence with the intention of returning, the unmarried domestic partners shall continue to share a common residence for the purposes of this section.

SECTION 4. That Section 41-4708, Idaho Code, be, and the same is hereby amended to read as follows:

41-4708. AVAILABILITY OF COVERAGE – PREEXISTING CONDITIONS – PORTABILITY. (1) Every small employer carrier shall, as a condition of offering health benefit plans in this state to small employers, actively offer to small employers all benefit plans, including the small employer basic health benefit plan, the small employer standard health benefit plan, and the small employer catastrophic health benefit plan.

(2) (a) A small employer carrier shall file with the director, in a format and manner prescribed by the director, the small employer basic, standard and catastrophic health benefit plans to be used by the carrier. A health benefit plan filed pursuant to the provisions of this paragraph may be used by a small employer carrier beginning thirty (30) days after it is filed unless the director disapproves its use.

(b) The director at any time may, after providing notice and an opportunity for a hearing to the small employer carrier, disapprove the continued use by a small employer carrier of a basic, standard or catastrophic health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

(3) Health benefit plans covering small employers shall comply with the following provisions:

(a) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage.

(b) Genetic information shall not be considered as a condition described in this subsection in the absence of a diagnosis of the condition related to such information.

(c) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer or the carrier. This paragraph does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan.

(d) A health benefit plan may exclude coverage for late enrollees for the greater of twelve (12) months or for a twelve (12) month preexisting condition exclusion; provided that if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed twelve (12) months from the date the individual enrolls for coverage under the health benefit plan.

(e) (i) Except as provided in paragraph (e)(iv) of this subsection, requirements used by a small employer carrier in determining whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

(ii) A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.

(iii) In applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.

(iv) A small employer carrier shall not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(f) (i) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals in a small employer group or to only part of the group, except in the case of late enrollees as provided in paragraph (d) of this subsection.

(ii) A small employer carrier shall not modify a basic, standard or catastrophic health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(4) (a) A small employer carrier shall not be required to offer coverage or accept applications pursuant to the provisions of subsection (1) of this section in the case of the following:

(i) To a small employer, where the small employer is not physically located in the carrier's established geographic service area;

(ii) To an employee, when the employee does not work or reside within the carrier's established geographic service area; or

(iii) Within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

(b) A small employer carrier that cannot offer coverage pursuant to the provisions of subsection (4)(a)(iii) of this section may not offer coverage in the applicable area to new

1 cases of employer groups with more than fifty (50) eligible employees or to any small  
2 employer groups until the later of one hundred eighty (180) days following each such  
3 refusal or the date on which the carrier notifies the director that it has regained capacity to  
4 deliver services to small employer groups.

5 (5) A small employer carrier shall not be required to provide coverage to small  
6 employers pursuant to the provisions of subsection (1) of this section for any period of time for  
7 which the director determines that requiring the acceptance of small employers in accordance  
8 with the provisions of subsection (1) of this section would place the small employer carrier in a  
9 financially impaired condition.

10 (6) At the request of an employer, all health benefit plans offered to small employers  
11 under this chapter which provide coverage for the spouse of the insured must provide the same  
12 coverage that is available to such spouse to the unmarried domestic partner of the insured on  
13 the same terms.

14 (a) As used in this subsection, "unmarried domestic partner" means a person who  
15 has entered into a committed interdependent relationship with another adult, where the  
16 partners:

17 (i) Are responsible for each other's common welfare;

18 (ii) Share a common residence and intend to do so indefinitely;

19 (iii) Are not related by blood or adoption to an extent that would prohibit marriage  
20 in this state; and

21 (iv) Are legally competent and qualified to enter into a contract.

22 (b) For purposes of this subsection, unmarried domestic partners may share a common  
23 residence, even if they do not each have a legal right to possess the residence or one  
24 (1) or both unmarried domestic partners possess additional real property. If one (1)  
25 unmarried domestic partner temporarily leaves the common residence with the intention  
26 of returning, the unmarried domestic partners shall continue to share a common residence  
27 for the purposes of this subsection.